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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,420	01/10/2002	Glenn A. Fickett		9654

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PHOENIX, AZ 85028

EXAMINER

TRAN, KHOA H

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 07/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/043,420

Applicant(s)

FICKETT GLENN

Examiner

Khoa Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 16 and 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) ☐ Other: _____

Election/Restrictions

Applicant's election without traverse of species II, Figures 5, 6, 8 and 9 in Paper No. 7 is acknowledged. Accordingly, claims 16 and 17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species.

Drawings

The drawings are objected because they fails to show reference numerals "130" and "140" as described on page 11, lines 14 and 18. Further, the reference numeral "72" in Figure 5 fails to properly identifies the hub. Correction is required.

A proposed drawing correction or corrected drawings are required in reply to the Office action.

Specification

On page 8, line 3, "49" should be --70--; on line 4, "16" and "42" should be --16a-- and --42a--. On page 9, line 10, "arms 70" should be --arms 58--. On page 10, line 12, "snaps 19" should be snap --19a--, and line 14, "supports 49" should be --supports 70--, in order to agree with what has been described and shown in the drawings. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With respect to claim 1, line 9, it is unclear as to what "thereto" is referring to. Further, the recitation of "or" renders the claims indefinite because it is unclear which one to the two nonequivalent alternatives the applicant is positively set forth. With respect to claim 3, it is unclear whether the releasable securing means being set forth is the additional to or the same as the releasable securing means previously set forth in the last paragraph of claim 1? With respect to claim 8, there is no antecedent basis for "the center piece". With respect to claims 11-13, it is unclear to how many storage devices are claimed. Note that claim 1 set forth one storage device having a wall brace portion while claims 11-13 require at least two or three wall brace portions.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-3, 5-8, and 15 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over U.S. Patent No. D437,164 of Fickett in view of Angeles and Saeks et al. The U.S. Patent No. D437,164 of Fickett teaches all limitations of the claims as illustrated in Figures 1-5 except that it does not illustrate the vertical portion telescopically and releasably received within the upper end of the base vertical portion. However, Angeles teaches the elongated vertical portion (44 and 16) that has an upper end (18) and lower end (20); the upper end of the lower vertical portion (16) is telescopically inserted and releasable into the lower end of the upper vertical portion (44), (note that in Figure 2, the cross line between sections indicating that the vertical portions are connectable therein with one another and the adjacent dot, not numbered, indicates that a type of securing means allows the section to be releasable). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the vertical members of U.S. Patent No. D437,164 to be telescopically attached with one another vertical members so that the device can be disassembled to reduce space for storage. The U.S. Patent No. D437,164 is silent on the support arms being slidable on the vertical member. However, Saeks et al. teach a slidable hub with supporting arms mounted to a vertical member having a pair of grooves along the periphery of the hub and being positioned 180 degrees from other pair of grooves (130 and 144). See Figures 6 and 7. The hub has a pair of supporting arms, a front section, a rear section, and a center piece (16) captured therebetween. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the U.S Patent No. D437,164 with the

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provision of the hub as taught by Saeks et al. in order to enable the hub and supporting arms to be adjusted on the vertical member to support vary sizes of bicycles.

Claim 4 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over U.S. Patent No. D437,164 in view of Angeles and Saeks et al. as applied to claims 1-3, 5-8, and 15 above, and further in view of Holtz. Holtz teaches a snap releasable securing means (26 and 30) on the vertical portion member, see Figures 4a and 4b. It would have been obvious to one of ordinary skill in the art at the time of invention was made to provide the vertical portions of U.S. Patent No. D437,164 with securing means as taught by Holtz in order to have the portions being secured together by the snap spring means because it is well within the level of skill of one of ordinary skill to utilize known features of the art for the purpose for which they are known.

Claims 11, 12, and 14 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over U.S. Patent No. D437,164 in view of Angeles and Saeks et al. as applied to claims 1-3, 5-8, and 15 above, and further in view of Cheng. Cheng teaches a center connector (10) connecting with the adjacent frame (26) and another adjacent frame (28) therewith. See Figure 2. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the U.S. Patent No. D437,164S with the provision of a center connector as taught by Cheng in order to connect one frame with another frame because it is well-within the level of skill in the art to utilize known features of the art for the purpose for which they are known.

The prior art made of record and not relied upon is considered pertinent to applicants' disclosure. Greenfield, Smith, Prusmack, Ko, Huang, Lynch, Martinell, and Santella are cited to show similar configurations of design.

Allowable Subject Matter

Claims 9 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Claims 9, 10, and 13 are allowable because there is no teaching or suggestion of a hub having a front section that is shaped as a cylinder having a sidewall and a disk covering one end and an open end, the front section further has two sidewall openings on the opposing sides of the sidewall, the sidewall openings being adapted to slidably receive the vertical member and the elongated vertical portion therein. See claim 9. Further, there is no teaching or suggestion of the center connector engages each of the three wall brace portions at 120 degrees from the other of the three wall brace portions. See claim 13.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa Tran whose telephone number is (703) 306-3437. The examiner can normally be reached on Monday through Thursday from 9:30 A.M. to 7:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola, can be reached on (703) 308-2686. The fax phone number for this Group is (703) 305-3597 or (703) 305-3598.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

If the applicant is submitted by facsimile transmission, applicant is hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and M.P.E.P. 502.02). In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check should not be submitting by facsimile transmission separately from the check. Responses submitted by facsimile transmission should include a Certificate of Transmission (M.P.E.P 512). The following is an example of the format the certification might take:

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(Date)

Type or printed name of person signing this certificate:

(Signature)

Furthermore, please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Khoa Tran
June 29, 2003


Ann Chin-Shue
Primary Examiner